



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Carol A. Spiegel  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942

MAILED

JUL 16 2003

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicants: Imler et al.  
Application No.: 09/218,143  
Filed: 12/12/98  
For: Defective Adenoviruses and  
Corresponding Complementation Lines

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,136.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

A handwritten signature in cursive script, reading "Carol A. Spiegel", is written over a horizontal line.

Carol A. Spiegel  
Administrative Patent Judge

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 1

Filed by: Carol A. Spiegel  
Administrative Patent Judge  
Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed: July 16, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Carol A. Spiegel)

QUIG WANG, MITCHELL H. FINER  
and XIAO-CHI JIA

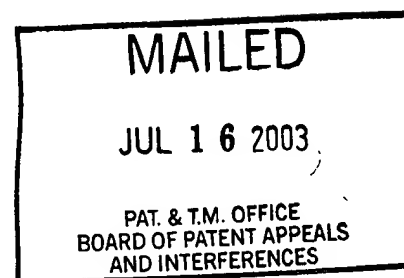
Junior Party,  
Application 08/333,680

v.

JEAN-LUC IMLER, MAJID MEHTALI  
and ANDREA PAVIRANI

Senior Party  
Application 09/218,143

Patent Interference No. 105,136



**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. §135(a)) between the above-identified parties. details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or not corresponding to the count(s) appear in

Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Carol A. Spiegel has been designated to handle the interference. 37 CFR § 1.601(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to discuss how next to proceed**

A telephone call to discuss how next to proceed in this interference in light of related interference 104,821 (see Paper 116) is scheduled for **10:00 a.m. on August 19, 2003** (the call will be initiated from the PTO). Specifically, the parties should be prepared to discuss why the interference should not proceed directly to its priority phase and, if not, what preliminary matters should be attended to and why.

**Part E. The parties involved in this interference are:**

Junior Party

|                   |   |
|-------------------|---|
| Named inventors:  | QING WANG,<br>MITCHELL H. FINER and<br>XIAO-CHI JIA                                     |
| Application:      | 08/333,680,<br>filed November 3, 1994   |
| Title:            | Novel Adenoviral Vectors, Packaging Cell Lines,<br>Recombinant Adenoviruses and Methods |
| Assignee:         | CELL GENESYS, INC.  |
| Accorded Benefit: | None  |

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: JEAN-LUC IMLER,  
MAJID MEHTALI and  
ANDREA PAVIRANI

Application: 09/218,143  
filed December 22, 1998

Title: Defective Adenoviruses and Corresponding  
Complementation Lines

Assignee: TRANSGENE S.A.

Accorded Benefit: of application 08/379,452,  
filed January 26, 1995

of PCT application PCT/FR94/00624,  
filed May 27, 1994

of FR application 93 06482,  
filed May 28, 1993

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

The recombinant adenoviral vector of claim 46 of Wang 08/333,680, wherein the two gene regions are E1 and E4

or

The recombinant adenoviral vector of claim 38 or 47 of Wang 08/333,680

or

The recombinant adenovirus of claim 66 of Imler 09/218,143

or

The recombinant adenoviral vector of claim 67 of Imler 09/218,143.

The claims of the parties are:

Wang: 37-48, 52, 54, 56-57

Imler: 56-57, 59, 61-67

The claims of the parties which correspond to Count 1 are:

Wang: 37-38, 46-47, 52, 54, 56

Imler: 66-67

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Wang: 39-45, 48, 57

Imler: 56-57, 59, 61-65<sup>1</sup>

---

<sup>1</sup> Imler claims 56-57, 59 and 61-65 have been found unpatentable in related interference 104,821 (Paper 116).

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See  
¶ 3.5 of the STANDING ORDER.

Paper \_\_\_\_<sup>2</sup>

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Carol A. Spiegel)

QING WANG, MITCHELL H. FINER  
and XIAO-CHI JIA

Junior Party,  
Application 08/333,680

v.

JEAN-LUC IMLER, MAJID MEHTALI  
and ANDREA PAVIRANI

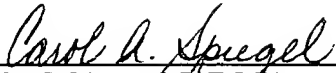
Senior Party  
Application 09/218,143

Patent Interference No. 105,136

TITLE OF PAPER

<sup>2</sup> Leave a blank line because the board assigns the paper number.

**Part J.          Signature of administrative patent judge**

  
\_\_\_\_\_  
CAROL A. SPIEGEL  
Administrative Patent Judge

Date: July 10, 2003  
Arlington, VA

Enc:    Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Copy of claims of application 08/333,680

Copy of claims of application 09/218,143

cc (via overnight delivery):

Wang  
(real party in interest  
CELL GENESYS, INC.):

Steven B. Kelber, Esq.  
PIPER MARBURY RUDNICK & WOLFE LLP  
1200 Nineteenth Street, N.W.  
Washington, DC 20036-2430  
Tel: 202-861-3900  
Fax: 202-223-2085  
E-mail: steven.kelber@piperrudnick.com

Linda R. Judge, Esq.  
CELL GENESYS, INC.  
342 Lakeside Drive  
Foster City, CA 94404  
Tel: 650-425-4650  
Fax: 650-349-7392  
E-mail: linda.judge@cellgenesys.com

Imler  
(real party in interest  
TRANSGENE S.A.):

R.Danny Huntington, Esq.  
Todd R. Walters, Esq.  
Susan M. Dadio, Esq.  
Norm H. Stepno, Esq.  
Teresa Stanek Rea, Esq.  
BURNS, DOANE, SWECKER & MATHIS, LLP  
1737 King Street, Suite 500  
Alexandria, VA 22313-2756  
Tel: 703-836-6620  
Fax: 703-836-2021  
E-mail: dannyh@burnsdoane.com  
toddw@burnsdoane.com  
susand@burnsdoane.com  
norms@burnsdoane.com  
teresar@burnsdoane.com